

EXHIBIT 1

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Richmond's organ transplantation network hit with class-action lawsuit

ERIC KOLENICH *Richmond Times-Dispatch*

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RICHMOND — A California man has filed a class-action lawsuit against the Richmond-based **United Network for Organ Sharing**, alleging UNOS failed to sufficiently address the racial equity problems of kidney transplantation.

For years, Black Americans have waited longer for kidney transplants than people of other races. Plaintiff Anthony Randall alleges that, because UNOS was slow to change and implement a new policy, Black patients unfairly suffered with kidney disease for longer periods of time.

Randall, who is Black and awaiting a kidney transplant, filed the lawsuit last week in a federal court in Los Angeles. He is seeking at least \$5 million from UNOS and Cedars Sinai Health Ventures, his transplant hospital.

The suit touches on a significant debate in transplantation. UNOS for years used an allocation policy now considered racially discriminatory. The organization announced plans last year adjust it, but UNOS is giving hospitals until 2024 to respond.

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“Black Americans continue to suffer racial discrimination in the kidney donation process, despite all involved admitting that the current process is discriminatory to Black Americans,” the suit claims.

Kidney function is measured by estimated glomerular filtration rate, or eGFR. A patient's eGFR score is used to determine when a patient can be placed on the national kidney waitlist.

When the tests for eGFR were developed, doctors noticed that Black Americans produce higher levels of creatine, a chemical the body uses to make energy for muscles. Doctors falsely assumed the high levels were the result of Black people having greater muscle mass than white people. A more recent **study** stated that it is unclear why Black people have higher levels of creatine.

Because of this flawed notion, the creators of eGFR added a race-based coefficient that inflates the scores of Black residents by 16-18%. In essence, the test makes Black Americans look healthier than they really are, pushing them further back in line for kidney transplants.

The National Kidney Foundation and the American Society of Nephrology recommended removing Black race as a factor in the calculation. The lawsuit calls the racial coefficient “junk science supported only by racial stereotypes and not any valid scientific studies.”

“It’s racially biased and means people of color are deprioritized in terms of access to the list,” said Molly McCarthy, vice chair of UNOS’ patient affairs committee. “That’s terrible.”

In June of last year, UNOS announced it would outlaw the use of the race-based coefficient when measuring eGFR scores. But for six months, it did nothing to move up Black patients closer to the front of the waitlist.

In January, UNOS instructed donor hospitals to investigate whether Black members of the donor list should be moved up. UNOS gave donor hospitals until January 2024 year to complete this process.

But people desperate for a kidney cannot wait that long, the suit claims.

Black Americans are “missing out on donor kidneys they rightfully should have been awarded, incurring significant economic losses, suffering from worsened kidney disease, and in some instances, dying,” the suit states. Black Americans are more likely to suffer kidney failure than any other race, according to the American Kidney Fund.

UNOS’ patient affairs committee brought up the matter to UNOS leadership three years ago, McCarthy said. The committee pleaded for a fast response, but UNOS has moved methodically.

The eGFR problem is emblematic of UNOS' inability to respond to needed change, McCarthy said. The organization is under a **Congressional investigation** for issues in its technology, delivering organs to their destinations and disciplining struggling organ procurement organizations.

"It's yet another symptom of the same problem and behavior we see way too consistently," McCarthy said. "Nothing happens despite the urging of communities like ours driven by patients."

Randall, the plaintiff, developed the symptoms of kidney disease 24 years ago. He took eGFR tests for years, but the results indicated he was not sick enough to join the kidney transplant wait list.

Patients wait an average of three or four years for a kidney, depending on their blood type and geographic location, McCarthy said. Kidneys are allocated depending on the length of a time a patient has waited and the health of the patient's kidneys.

Randall has waited more than five years, the suit claimed. He asserted that, had his tests been conducted correctly, he would have received his kidney already.

Randall filed the lawsuit on behalf of the nearly 28,000 Black people on the national kidney waitlist. There are roughly 100,000 Americans on the list.

The suit claims there are 205 Black patients at Cedars Sinai waiting for a kidney. The hospital announced last month it would begin reviewing the waitlist and would re-order it if needed. But the process will take several months. A spokesperson for UNOS declined to comment.

Dr. Jayme Locke, head of transplantation at the University of Alabama at Birmingham, said last year that the process of changing eGFR is broader than organ transplantation and involves how hospital labs function and how they dose medication.

But McCarthy said there is no reason to wait to allocate kidneys in a fair manner.

“There’s no pass because it’s hard,” McCarthy said. “You do the work.”

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